

Exhibit 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Theresa Bassett and Carol Kennedy,
Peter Ways and Joe Breakey,
JoLinda Jach and Barbara Ramber,
Doak Bloss and Gerardo Ascheri,
Denise Miller and Michelle
Johnson,

Plaintiff,

Case No. 12-10038

-v-

Richard Snyder, in his official
capacity as Governor of the State
of Michigan,

Defendant.

MOTION HEARING

BEFORE THE HONORABLE DAVID M. LAWSON
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
August 7, 2012

APPEARANCES:

FOR PLAINTIFFS:

AMANDA C. GOAD
JOHN A. KNIGHT
ACLU Foundation
and
MICHAEL J. STEINBERG
ACLU of Michigan
and
AMY E. CRAWFORD
Kirkland & Ellis, LLP

FOR THE DEFENDANT:

MARGARET A. NELSON
Michigan Department of Attorney General

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1 controlling the costs do go into things like the Economic
2 Vitality Incentive Program, but that's conceptually different
3 from discriminatory denial of benefits to the few.

4 Finally, on the question of the public interest and
5 whether it's relevant that the public employers of these
6 Plaintiffs have stepped up to articulate their reasons, I
7 would submit that the feelings of the Deputy Superintendent
8 of Ann Arbor Public Schools, the City Manager of Kalamazoo,
9 the Controller of Ingham County, and the President of
10 Kalamazoo Valley Community College are relevant to assessing
11 the public interest. But the public interest is always harmed
12 where unconstitutional State action is being allowed to
13 continue. So that's our primary basis for arguing that the
14 public interest favors an injunction.

15 Further, the State has not been able to articulate
16 any meaningful harm it is incurring from the existence of this
17 Act -- excuse me -- from the injunction of this Act, thus,
18 they have made no showing that a public interest would not
19 favor the injunction.

20 THE COURT: Anything further?

21 Ms. Goad, I say, anything further?

22 MS. GOAD: No, sir.

23 THE COURT: Yes.

24 MS. NELSON: Your Honor, would you care for briefing
25 on the injunction, on the scope of the injunction issue?

1 Because I believe Kowalski versus Tesmer resolved that issue
2 for the Court.

3 THE COURT: No, I don't need any additional briefing.

4 MS. NELSON: Thank you.

5 THE COURT: Mr. Knight, did you have something else?

6 MR. KNIGHT: I'm sorry. I just was going to offer to
7 do that, if you would like briefing on this issue of the scope
8 of the injunction.

9 I think Ms. Goad said earlier that we had addressed
10 it. I don't think we fully addressed that issue in the brief.
11 It is true that the Diaz case actually issued a broader
12 injunction than Ms. Goad has talked about, but we could
13 certainly brief that issue if your Honor would like us to.

14 THE COURT: Well, you know, I'm -- I'm not certain
15 as to the direction I'm going with this case yet, but it seems
16 to me that if your arguments are not persuasive with respect
17 to a facial challenge, the as-applied challenge, I don't know
18 that it would help you that much under the circumstances, so
19 as far as the scope of the injunction is concerned, I don't
20 think I need additional briefing from you on that point.

21 MR. KNIGHT: There is case law and we do have --
22 we have researched this issue. There is case law for
23 as-applied challenges where the relief was broader than just
24 the Plaintiffs; that is, if there was a class of people who
25 were affected in the same way because of an unconstitutional